IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 30TH OCTOBER 2007 / 8TH KARTHIKA 1929

Bail Appl..No. 6493 of 2007()

(CRIME NUMBER NOT KNOWN)

PETITIONER/ACCUSED:

RAMAN, S/O. CHEERAN,
CHEROLIL HOUSE, KOLAPPURAM, A.R.NAGAR P.O.,
TIROORANGADI, PIN-676 305.

BY ADV. SRI.DILIP MOHAN

RESPONDENTS: STATE:

1. **STATE OF KERALA, REPRESENTED BY**
   THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
   ERNAKULAM.

2. **STATION HOUSE OFFICER,**
   TIROORANGADI POLICE STATION.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 30/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KSS

R.BASANT, J.

B.A.No.6493 of 2007

Dated this the 30th day of October 2007

O R D E R

Application for anticipatory bail. The petitioner faces allegations under the Kerala Abkari Act. He had allegedly kept 13 litres of I.M.F.L in his possession. The detection was made on 28/2/2007. The contraband articles were recovered. But the accused was not available. Investigation revealed that it was the accused who had kept the articles there. On 28/2/2007 seizure was effected under Section 102 Cr.P.C. Later, the investigation revealed the complicity of the petitioner. The examination of the local witnesses had revealed the complicity of the petitioner to the police. The petitioner was brought on the array on 1/3/2007. He has not been arrested yet. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. According to the petitioner, he has been unnecessarily dragged into the controversy. He is not, in any way, responsible for the articles seized. He has nothing to do with the same. The petitioner was called to the police station a couple of times. But he has not been arrayed as accused so far. The petitioner was not informed that he has been arrayed as an accused. In these circumstances, directions under Section 438 Cr.P.C may be issued, submits the learned counsel for the petitioner.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the investigation has clearly revealed the complicity of the petitioner. The petitioner has criminal antecedents. He faces allegations under the Kerala Abkari Act in three other crimes, submits the learned Public Prosecutor. The learned Public Prosecutor has brought to the notice of the court, the statements of the persons of the locality recorded on 1/3/2007 which indicated the complicity of the petitioner.

4. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor. I am satisfied that there are no features in this case which would justify invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. I agree with the learned Public Prosecutor that this is a fit case where the petitioner must appear before the investigating officer or the learned Magistrate having jurisdiction and then seek regular bail in the normal and ordinary course.

5. In the result, this petition is dismissed. Needless to say, if the petitioner surrenders before the investigating officer or the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

jsr // True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007